

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

\*

W.R. GRACE & CO., et al.,

\* Chapter 11

Debtor.

\* Case No. 01-01139 (JKF)  
(Jointly Administered)

-----X  
W.R. GRACE & CO., et al.

\*

Plaintiffs,

\*

-against-

\* Adversary No. A-01-771

MARGARET CHAKARIAN, et al.  
and JOHN DOES 1-1000,

\* Ref. Nos. 398, 413, 414, 417

Defendants.

Hearing Date : May 2, 2007 @ 2:00 p.m.

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**NOTICE OF MOTION**

**PLEASE TAKE NOTICE** that Continental Casualty Company is filing the attached **Motion for Leave to File a Reply (I) To Various Responses to Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF, and (II) in Support of Debtors' Motion to Expand the Preliminary Injunction to Include Actions Against BNSF.** (the "Motion"), to be considered at the convenience of the Court.

Dated: April 27, 2007

ROSENTHAL, MONHAIT & GODDESS, P.A.



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In re: \*  
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**CONTINENTAL CASUALTY COMPANY MOTION'S FOR LEAVE TO FILE A  
REPLY (I) TO VARIOUS RESPONSES TO DEBTORS' MOTION TO EXPAND THE  
PRELIMINARY INJUNCTION TO INCLUDE ACTIONS AGAINST BNSF, AND (II) IN  
SUPPORT OF DEBTORS' MOTION TO EXPAND THE PRELIMINARY INJUNCTION  
TO INCLUDE ACTIONS AGAINST BNSF**

Continental Casualty Company ("CCC") respectfully requests that this Court grant it leave from this Court's Chambers Procedures to file a twelve (12) page reply brief (the "Reply") (a) responding to the (i) *Response of BNSF to Debtors' Motion to Expand the Injunction to Include Actions Against BNSF* (Docket No. 413) ("BNSF Response"), (ii) *Opposition of the Official Committee of Asbestos Personal-Injury Claimants to Debtors' Motion to Expand the Injunction to Include Actions Against BNSF* (Docket No. 414) (the "PI Opposition"), and (iii) *Opposition of Libby Claimants to Debtors' Motion to Expand the Injunction to Include Actions Against BNSF* (Docket No. 417), (the "Libby Opposition") and (b) in support of the *Debtors' Motion to Expand*

*the Injunction to Include Actions Against BNSF* (Docket No. 398) (the “Expansion Motion”) and states as follows:

1. On March 26, 2007, W.R. Grace & Co., et al (“Grace” or the “Debtors”) filed the Expansion Motion seeking to expand the Injunction to include the Montana Actions pending against BNSF. The Expansion Motion is currently pending before this Court.

2. The BNSF Response, the PI Opposition and the Libby Opposition inaccurately and incompletely state the facts presented by the Expansion Motion and subject their version of the facts to a flawed analysis of the jurisdictional requirements and legal standards. The Debtors have addressed these legal and factual inaccuracies in the *Debtors’ Reply In Support Of Their Motion To Expand The Preliminary Injunction To Include Actions Against BNSF* (the “Debtors’ Reply”). CCC generally joins and supports the Debtors’ Reply.

3. In explaining the basis for the Court’s subject matter jurisdiction to enjoin the Montana Actions, Grace identifies “four distinct avenues by which the Debtors’ estates may be directly impacted by the Montana Actions filed against BNSF.” (Debtor’s Reply, p.2). To provide a more detailed explanation of why none of the opposition papers defeat or eliminate those avenues, CCC seeks to file a twelve-page Reply with an accompanying exhibit.

4. The Reply notes, *inter alia*, that (i) BNSF has not given up its claim for contractual indemnification and there is no evidence that conclusively establishes that all of the claims will be entirely covered with no claims against the Debtors; (ii) BNSF has not conceded or waived its claim for coverage under the Debtors’ insurance; (iii) BNSF has not waived its defense that the Libby Claimants’ injuries arose from the Debtors’ products or operations; and (iv) BNSF has not waived other claims of indemnification.

WHEREFORE, Continental Casualty Company respectfully requests entry of an order granting permission to file the Reply, which is attached hereto as Exhibit 1.

Dated: April 27, 2007

Respectfully Submitted,

ROSENTHAL, MONHAIT, & GODDESS, P.A.



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